REMARKS

Claims 1-53 are pending in the present Application. The Claims have been presented here for the convenience of the Examiner. No amendments have been made. Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and the following remarks.

Claim Rejections Under 35 U.S.C. § 101

Claims 1-53 stand rejected under 35 U.S.C. § 101 as claiming the same invention as U.S. Patent No. 6,583,205 ('205). Applicants respectfully traverse this rejection.

The claims of '205 are directed to an expandable composition and a method of making it. As made clear by the claims and the preamble, the claimed composition has not yet been expanded. In contrast, the pending claims are directed to a composition that has been expanded and to produce an expanded material requires an additional step which was not claimed in the '205 patent. Applicants respectfully assert that the instant claims are not drawn to the same invention.

Claim Rejections Under the Judicially Created Doctrine of Double Patenting

Claims 1-53 stand rejected under the judicially created doctrine of double patenting. Applicants respectfully traverse this rejection on the same basis described above with regard to the rejection under 35 U.S.C. §101.

Claim Rejections Under 35 U.S.C. § 102(b) and 103(a)

Claims 1-52 stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by U.S. Patent No. 4,857,390 to Allen ('390), alone or taken with Taubitz et al. or Axelrod et al. Applicants respectfully point out that rejection under 35 U.S.C. §102(b) requires that a single reference disclose each and every element of the claim. Accordingly, Applicants believe the Examiner intended to rejection Claims 1-52 under 35 U.S.C. §103(a) using the combinations of references. Applicants respectfully traverse these rejections.

Allen does not disclose use of a polystyrene essentially free of plasticizer as is instantly claimed. Similarly, neither Taubitz nor Axelrod teach this element. To anticipate a claim, a reference must disclose each and every element of the claim. *Lewmar Marine v. Varient Inc.*, 3 U.S.P.Q.2d 1766 (Fed. Cir. 1987). Similarly, for an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). Establishing a prima facie case of obviousness requires that all elements of the invention be disclosed in the prior art. *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970). Applicants respectfully assert that the pending claims are neither anticipated nor obvious in view of the cited art because the cited art fails to teach all elements of the claims.

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and allowance are requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 07-0862.

Respectfully submitted,

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